

SIKKIM

GOVERNMENT



GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 79

Gangtok, Friday, September 19, 1980

LAW AND LEGISLATIVE DEPARTMENT

NOTIFICATION

No. 11/LL/80.

Dated Gangtok, the 18th September, 1980.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on the 16th day of September, 1980, is hereby published for general information.

SIKKIM ACT NO. 8 OF 1980.

THE SIKKIM ENTERTAINMENT TAX ACT, 1980.

AN

ACT

to provide for imposition of a tax on entertainments and other amusements.

Be it enacted by the Legislative Assembly of Sikkim in the Thirty-first Year of the Republic of India.

1. (1) This Act may be called the Sikkim Entertainment Tax Act, 1980.

Short title, extent and commencement

- (2) It extends to the whole of Sikkim.

- (3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

2. In this Act, unless there is anything repugnant in the subject or context,-

Definitions

- (a) "admission to an entertainment" includes admission to any place in which the entertainment is held;
- (b) "agriculture" includes horticulture and livestock breeding;
- (c) "entertainment" includes any exhibition, performance, amusement, game or sport to which persons are admitted on payment;

Explanation:— The exhibition of news reels, documentaries, advertisement, slides and cartoons, whether before or during the exhibition of a feature film is "entertainment":

- (d) "Government" means the Government of the State of Sikkim;
- (e) "notification" means a notification published in the official Gazette;
- (f) "payment for admission" includes-
- (i) any payment made by a person who, having been admitted to one part of a place of entertainment is subsequently admitted to another part thereof, for admission to which a payment involving tax or more tax is required;

- (ii) any payment for seats or other accommodation in a place of entertainment;
- (iii) any payment for a programme or synopsis of an entertainment; and
- (iv) any payment for any purpose whatsoever connected with an entertainment which a person is required to make as a condition of attending or continuing to attend the entertainment in addition to the payment, if any, for admission to the entertainment;

(g) "proprietor" in relation to any entertainment includes any person responsible for the management thereof;

Explanation— A person charged with the work of admission to an entertainment is for purposes of sections 5 and 6 a person responsible for the management;

(h) "society" includes a company, institution, club or other association of persons by whatever name called.

Tax on payment for admission to entertainment

3. (1) There shall be levied and paid on all payments for admission to any entertainment, a tax called entertainment tax at a rate not exceeding fifty per cent of the payment for admission where such payment does not exceed one rupee and not exceeding seventy-five per cent thereof in any other case as the Government may from time to time specify by a notification in this behalf and the tax shall be collected by the proprietor and paid to the Government in the manner prescribed.

(2) If in any entertainment to which admission is generally on payment, any person is admitted free of charge or on a concessional rate, he would be liable to pay the same amount of entertainment tax as would be payable by him had he been admitted on full payment to the class to which he is entitled.

Amount payable on lumpsum subscription as contributions or on season tickets

4. Where the payment for admission to an entertainment is made by means of a lump sum paid as a subscription or contribution to any society or for season tickets, the entertainment tax shall be paid on the amount of the lump sum but where the Government is of the opinion that the payment of a lump sum or any payment for a ticket represents payment for other privileges, rights or purposes besides the admission to an entertainment, the tax shall be charged on such amount as appears to the Government to represent the right of admission to entertainments in respect of which the entertainment tax is payable.

Manner of admission and payment

5. (1) Save as otherwise provided in this Act, no person, other than a person who has some duty to perform in connection with the entertainment or a duty imposed upon him by law, shall be admitted to any entertainment, except with a ticket denoting that the proper entertainment tax payable under section 3 or section 4 has been paid.

(2) The Government may, on such conditions as may be prescribed, require the proprietor to pay the amount of the entertainment tax due either—

(a) by stamping the tickets with a seal or with an impressed, embossed, engraved or adhesive stamp (not used before) issued by the Government for the purpose of revenue and denoting that the proper entertainment tax payable under section 3 or section 4 has been paid, or

(b) in accordance with returns of the payments for admission to the entertainment and on account of the tax; or

(c) by a consolidated payment of a percentage, to be fixed by the Government of the gross sum received by the proprietor on account of payments for admission to the entertainment and on account of the tax; or

(d) in accordance with results recorded by any mechanical contrivance which automatically registers the number of persons admitted.

(3) For the purpose of bringing uniformity in the realisation of entertainment tax the Government shall classify the entertainments in the manner prescribed.

(4) The decision of the Government under sub-section (3) shall be final and shall not be questioned in any Court of law.

Prohibition against entry and penalty

6. (1) No person liable to pay entertainment tax shall enter or obtain admission to an entertainment without payment of the tax leviable under section 3 or section 4.

(2) Any person who enters or obtains admission to an entertainment in contravention of the provision of sub-section (1), shall on conviction before a Magistrate, be liable to pay a fine not exceeding two hundred rupees and shall in addition be liable to pay the tax which would have been paid by him.

(3) If any person liable to pay entertainment tax is admitted to a place of entertainment without payment of the tax leviable under section 3 or section 4 the proprietor of the entertainment to which such person is admitted shall, on conviction before a Magistrate, be liable in respect of every such contravention to a fine not exceeding rupees five hundred.

7. (1) The entertainment tax shall not be charged on payment for admission to any entertainment where the Government is satisfied—

Exemptions

(a) that the whole of the collections therefrom are devoted to philanthropic, religious or charitable purposes without any deductions for any expenses of the entertainment; or

(b) that the entertainment is of a wholly educational character, or

Explanation: Any question whether any entertainment is of a wholly educational character shall be decided by the Government whose decision shall be final.

(c) that the entertainment is provided for partly educational or partly scientific purposes by a society not conducted or established for profit; or

(d) that the entertainment is provided by a society which is established solely for the purpose of promoting the interest of industry or agriculture or the manufacturing industry, or some branch thereof, or the public health, and which is not conducted for profit, and consists solely of an exhibition of the products of the industry, or branch thereof for promoting the interest of which the society exists or of materials, machinery, appliances, or food-stuffs, used in the production of those products, or of articles which are of material interest in connection with the question relating to the public health, as the case may be.

(2) The Government may, by general or special order, exempt either partly or wholly any entertainment or class of entertainment or any class of the audience or spectators from liability to the entertainment tax.

8. Any sum due on account of entertainment tax shall be recovered as an arrear of land revenue.

Recovery as arrears of land revenue

9. (1) Any officer authorised by the Government may enter any place of entertainment while the entertainment is proceeding, and any place ordinarily used as a place of entertainment, at any reasonable time, for the purpose of checking whether provisions of the Act or of any rules made thereunder are being complied with.

Entry of authorised persons

(2) If any person prevents or obstructs the entry of any officer so authorised, he shall in addition to any other punishment to which he is liable under any law for the time being in force, be liable on conviction before a Magistrate to a fine not exceeding two hundred rupees.

(3) Every officer authorised under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

10. (1) The Government may make rules for securing the payment of the entertainment tax and generally for carrying into effect the provisions of the Act and in particular -

Power to make Rules and Penalty for their breach

(a) for the supply and use of stamps or stamped tickets or for the stamping of tickets and for securing the defacement of stamps when used;

(b) for classification of entertainments for the purpose of bringing uniformity in realisation of the entertainment tax;

(c) for the use of tickets covering the admission of more than one person and the calculation of the entertainment tax thereon;

(d) for controlling the use of barriers or mechanical contrivance (including the prevention of the use of the same barrier or mechanical contrivance for payment of a different amount), and for securing proper records of admission by means of barriers or mechanical contrivance.

(e) for the checking of admission, the keeping of accounts and the furnishing of returns by the proprietors of entertainments to which the provisions of sub-section (2) of section 5 are applied or in respect of which the arrangements approved by the Government for furnishing returns are made under the said provisions;

(f) for the renewal of damaged or spoiled stamps;

(g) for the keeping of accounts of all stamps used under this Act,

(h) for the presentation and disposal of applications for exemption from payment of the entertainment tax, made under the provisions of this Act;

(i) for the exemption from the entertainment tax of any class of the audience or spectators.

(2) If any person acts in contravention of, or fails to comply with, any such rules he shall, on conviction before a Magistrate, be liable in respect of each offence to a fine not exceeding two hundred rupees.

Revocation and suspension of licence for entertainment

11. Notwithstanding anything contained in any other law and without prejudice to the provisions of section 6, the District Magistrate may by order revoke or suspend any licence for an entertainment granted under any law for the time being in force, if the proprietor of such entertainment is convicted under the provisions of this Act. A copy of the order shall be communicated immediately to the proprietor who may appeal to the Government or such officer as the Government may specify in this behalf within one month from the date on which the order is served on him. The order passed in appeal shall be final.

Explanation - (1) The order of the District Magistrate shall be deemed to be duly served if a copy thereof is delivered to the proprietor in person, or if the District Magistrate is satisfied that such personal service cannot be made, then by affixation of a copy of the order at a prominent place at the site of the said entertainment.

(2) For the purpose of this section the word "licence" shall be deemed to include a licence or permit for any entertainment granted by any authority.

Prohibition against re-sale of tickets

12. (1) Notwithstanding anything contained in any other law for the time being in force a ticket for admission to an entertainment shall not be resold for profit by the purchaser thereof.

(2) Whosoever re-sells any ticket for admission to an entertainment for profit shall be punishable with a fine not exceeding rupees two hundred.

Repeal and Savings

13. (1) On and from the commencement of this Act, all Sikkim Laws, relating to matters for which provisions have been made in this Act and in force immediately before such commencement, shall stand repealed.

(2) Notwithstanding such repeal, anything done or action taken or proceedings commenced or tax imposed under the repealed Sikkim Laws shall be deemed to have been done, or taken or commenced or imposed under the provisions of this Act as if this Act was in force at the time such thing was done or action taken or proceedings commenced or tax imposed.

By Order of the Governor,

B. R. PRADHAN,
Secretary to the Government of Sikkim,
Law and Legislative Department,
Government of Sikkim,
F. No. 16 (84)LL/79.

SIKKIM

GOVERNMENT



GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No 25

Gangtok, Thursday, March 29, 1984

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK.

NOTIFICATION

No. 3/LD/1984.

Dated the 23rd March, 1984.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 22nd day of March, 1984, is hereby published for general information:—

THE SIKKIM ENTERTAINMENT TAX (AMENDMENT)
ACT, 1984
(ACT NO. 3 OF 1984)

AN
ACT

to amend the Sikkim Entertainment Tax Act, 1980.

[22.3.1984]

Be it enacted by the Legislature of Sikkim in the Thirty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Sikkim Entertainment Tax (Amendment) Act, 1984. *Short title, extent and commencement.*
(2) It extends to the whole of Sikkim.
(3) It shall come into force at once.
2. In the Sikkim Entertainment Tax Act, 1980 (hereinafter referred to as the principal Act), in section 2, in clause (c), after the word "entertainment" and before the word "includes" the words "means exhibition of films and" shall be inserted. *Amendment of section 2.*
3. In the principal Act, after section 3, the following sections shall be inserted, namely:— *Insertion of new sections 3A, 3B, 3C and 3D.*
"3A. (1) Where the entertainment is provided by video exhibition, the Government may realise the entertainment tax in a lump sum not exceeding three thousand rupees per month as the Government may, from time to time, by notification, specify and having regard to the population different rates may be specified for different areas in the State. *Tax for admission to entertainment realisable in a lump sum.*

8 of 1980.

(2) The provisions of this section and section 3D shall also apply to the entertainment provided by video exhibition by an association or club of more than ten individuals.

(3) The entertainment tax under this section shall be payable monthly in advance in such manner as may be specified by the Government, by notification.

Proprietor to furnish security and other information.

3B.

(1) The proprietor of the place where entertainment is provided by video exhibition shall, before the licence is granted, be required to deposit an amount not exceeding three thousand rupees as may be specified by the Government, by notification, by way of security for the payment of the entertainment tax under sub-section (1) of section 3A.

(2) Such proprietor shall, by an application in writing, intimate to the Government or an officer authorised by it under section 9 of this Act the place where entertainment is provided by video exhibition.

Offences under this Act and Act 20 of 1978 to be cognizable.

3C. Notwithstanding anything contained in any law relating to criminal procedure for the time being in force in Sikkim, every offence under this Act and the Sikkim Cinemas (Regulation) Act, 1978 shall be cognizable, bailable and triable summarily by a Judicial Magistrate of the first class. 20 of 1978.

Burden of proof.

3D. Where more than ten persons are found gathered at a place where entertainment is being provided by video exhibition, the burden of proving that the persons so gathered are members of the family of, or have been admitted without payment for admission shall lie on the person providing such entertainment".

Amendment of Act 20 of 1978.

4. In the Sikkim Cinemas (Regulation) Act, 1978—

(a) in section 2,—

(i) after clause (a), the following clause shall be inserted, namely:—

“(aa) “film” means a cinematograph film and includes any tape or cassette of moving pictures or series of moving pictures used in video cassette player or recorder”;

(ii) after clause (d), the following clause shall be inserted, namely:—

“(e) “video exhibition” means the exhibition of film through video cassette recorder or player and includes the exhibition of film through television or apparatus attached to television or the machine for transferring the film to the television screen or any other apparatus which shows a film on screen through any means other than the cinema projector”;

(b) after section 4, the following section shall be inserted, namely:—

“4A. The procedure for grant of licence, the fees payable therefor, the terms, conditions and restrictions subject to which licence may be granted under this Act for public exhibition by means of a cinematograph including video exhibition shall be such as may be prescribed”.

B. R. PRADHAN,
Secretary to the Government of Sikkim,
Law Department.

F. No. 16(188)/LD/84.

SIKKIM

GOVERNMENT



GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 9

Gangtok, Saturday, January 25, 1986.

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 2/LD/1986.

Dated the 25th January, 1986.

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 21st day of January, 1986, is hereby published for general information:—

THE SIKKIM CINEMAS (REGULATION) AMENDMENT ACT, 1985.

(ACT NO. 2 OF 1986)

AN
ACT

[21.1.1986]

to amend the Sikkim Cinemas (Regulation) Act, 1978 (No. 20 of 1978).

Be it enacted by the Legislature of Sikkim in the Thirty-sixth Year of the Republic of India as follows:—

*Short title, extent
and commencement.*

1. (1) This Act may be called the Sikkim Cinemas (Regulation) Amendment Act, 1985.
- (2) It extends to the whole of Sikkim.
- (3) It shall come into force at once.

*Amendment of
section 2.*

2. In the Sikkim Cinemas (Regulation) Act, 1978 (hereinafter referred to as the principal Act), in section 2,—
 - (a) in clause (e), after the words 'a film on' and before the words 'screen' the word 'television' shall be inserted;
 - (b) after clause (e), the following clause shall be inserted, namely:—

“(f) ‘Video Library’ means a place, by whatever name called, where the business of selling, letting on hire, distribution, exchange or putting into circulation, in any manner whatsoever, of film for purposes of exhibition is carried on.”

*Insertion of new
section 3A.*

4. In the principal Act, after section 3, the following section shall be inserted, namely:—

*“Video Library to
be licensed.*

- 3A. (1) No person shall keep any Video Library except under and in accordance with a licence granted under sub-section (1) above.

- (2) Where a person keeps more than one Video Library, whether in the same town or village or in different towns or villages, he shall obtain a separate licence in respect of each Video Library.
- (3) Every person keeping a Video Library under this Act shall, in respect of each film in his possession, produce when demanded by an officer authorised by Government in this behalf, a letter of consent from the person who is the first owner of the Copyright of the Cinematograph film under section 17 of the Copyright Act, 1957 (Act XIV of 1957) and in case such copyright has been assigned under section 18 of the said Act, from the assignee of such copyright.
- (4) No person who is granted a licence shall sell, let to hire, distribute, exchange, or put into circulation in any manner whatsoever, any film other than a film which has been certified as suitable for public exhibition by the authority constituted under section 3 of the Cinematograph Act, 1952 (Act 37 of 1952) and which, when exhibited, display the prescribed mark of that authority, and has not been altered or tampered with in any way since such mark was affixed thereto."

*Amendment of
section 4.*

5. In the principal Act, in section 4, after the words "proposed to be given" and before the words "is situated", the words "or the Video Library is proposed to be opened" shall be inserted.

*Amendment of
section 4A.*

6. In the principal Act, in section 4A, after the words "Video exhibition" and before the word "shall", the words "and for keeping a Video Library" shall be inserted.

*Amendment of
Act No. 8 of 1980.*

7. In the Sikkim Entertainment Tax Act, 1980, after section 3B, the following section shall be inserted, namely:—

*"Power to enter,
search and seize.
8 of 1980.*

3BB. Any officer authorised by the Government in this behalf, by notification, may—

- (a) enter, if necessary by force, whether by day or night, with such assistance as he considers necessary, any premises, which he has reason to suspect, are being used for purposes connected with the exhibition of films on the television screen through Video Cassette Recorder or keeping a Video Library in contravention of the provisions of the Sikkim Cinemas (Regulation) Act, 1978 and the rules made thereunder;
- (b) search the premises and persons whom he may find therein;
- (c) take into custody and produce before the Magistrate mentioned in section 3C, all such persons as are concerned or against whom a reasonable complaint has been made or credible information has been received or a reasonable complaint has been received or a reasonable suspicion exists of their having been concerned with the exhibition of film or keeping a Video Library in contravention of the provisions of the Sikkim Cinemas (Regulation) Act, 1978 and rules made thereunder;
- (d) seize all things found therein which are intended to be used or reasonably suspected to have been used in connection with such exhibition of film or keeping a Video Library."

20 of 1978.

20 of 1978

M. M. RASAILY,
Secretary to the Govt. of Sikkim,
Law Department.

F. No. 16 (65) LD/78.

SIKKIM

GOVERNMENT



GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok, Wednesday, 7th October, 1998

No. 220

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK.

No. 6/LD/98/

Dated the 5th October, 1998

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 23rd day of September, 1998 is hereby published for general information:-

THE SIKKIM ENTERTAINMENT TAX (AMENDMENT)

ACT, 1998

(ACT NO. 6 OF 1998)

AN

ACT

further to amend the Sikkim Entertainment Tax Act, 1980.

Be it enacted by the Legislature of Sikkim in the Forty-ninth Year of the Republic of India as follows:-

*Short title, extent and 1.
commencement.*

(1) This Act may be called the Sikkim Entertainment Tax (Amendment) Act, 1998.

(2) It extends to the whole of Sikkim.

(3) It shall come into force at once.

*Amendment of
section 2.*

2. (2) In the Sikkim Entertainment Tax Act, 1980, (hereinafter referred to as the "principal" Act), in section 2,-

(1) after clause (b) the following clause shall be inserted, namely:—

"bb", cable television" means a system organised by any proprietor on payment of any contribution or subscription or installation charges or connection charges or any other charges collected in any manner whatsoever from subscribers for exhibition of films or moving pictures or series of pictures or serials by means of transmission of television signals by wire where subscriber's television set is linked by metallic coaxial cable or optic fibre cable to a central system called the head end, owned by the proprietor by using a video cassette or disc or both, recorder or player or similar such apparatus on which prerecorded video cassettes or discs or both are played or replayed and the films or moving pictures or series of pictures or serials or any other programmes which are viewed and heard on the television receiving set at a residential or non-residential place of the subscriber";

(2) after clause (1) the following clause shall be inserted, namely:—

"(bbb)" disc antenna means an apparatus installed by the proprietor which receives television signals which enables viewers to tune into transmission and is erected or installed for exhibition of films or moving pictures or series of pictures, or serials, subscriber television sets at the residential or non-residential place are linked by metallic coaxial cable or optic fibre cable to a central system called the head end, on payment of the subscriber of any contribution and subscription or installation charges or connection charges or any other charges collected in any manner whatsoever";

(3) in clause (c),

(i) after the word "payment", the following shall be added, namely:-

"or in the case of television exhibition with the aid of any type of antenna with a cable network attached to it or cable television, for which persons are required to make payment by way of contribution or subscription or installation charges or any other charges collected in any manner whatsoever".

(ii) in the Explanation, after the word "entertainment" the following shall be added, namely:-

"and also includes any exhibition by cinematograph including video exhibition or television exhibition with the aid of any type of antenna with a cable network attached to it or cable television, for the purpose of transmitting signals to subscribers";

(4) in clause (f) after sub-clause (iv), the following sub-clause shall be inserted, namely:-

"(v) any payment made by a subscriber by way of contribution or installation charges or connection charges or any other charges collected by a proprietor in any manner whatsoever for television exhibition with the aid of any type of disc antenna with cable network attached to it ;

(5) in clause (g) after the word "thereof" the following shall be added, namely:-
"or responsible for, or for the time being in charge of management of providing or maintaining or operating cable connection from any type of disc antenna or cable television; whether or not he has obtained Licence or Certificate or Registration, if any, for such entertainment under any law for the time being in force".

(6) after clause (h) the following clause shall be inserted, namely:-

"(i) "tax" means an entertainment tax levied under this Act".

*Amendment of
section 3A.*

3. In the principal Act, in section 3A, in sub-section (1), for the words "three thousand rupees" the words "ten thousand rupees" shall be substituted.

*Insertion of new
section 5A". Tax on
exhibition of
entertainment by
means of disc antenna
or cable television
and furnishing of
returns".*

4. In the principal Act, after section 5, the following section shall be inserted, namely:-

"5A, (1) Notwithstanding anything contained in section 3, 3A, 3B, 4 and 5 of this Act, there shall be levied and paid by the proprietor to the State Government entertainment tax at the rate of 25 percent of the total payment made by every subscriber by way of contribution or subscription or installation and connection charges or any other charges collected in any manner whatsoever, to the proprietor for the exhibition of films or moving pictures, series of pictures by means of any type of disc antenna or cable television".

(2) Where the number of subscribers increases in any period during the financial year, the proprietor shall have to pay the tax per subscriber at the rate prescribed under sub-section (1) for such period in which increase takes place.

(3) The tax leviable under sub-section (1) shall be paid within such period and in such manner as may be prescribed.

(4) Every proprietor providing an entertainment with the aid of any type of disc antenna or cable television shall furnish such return relating to number of connection holders and the payment of tax to such officer, in such manner and within such period as may be prescribed".

By Order of the Governor,

T.D. RINZING
Secretary to the Govt. of Sikkim,
Law Department.

F. No. 16 (188)LD/88-98